

Appl. No. 09/666,630  
Pre-Appeal Brief Request for Review

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APR 22 2006

**IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE**

Appl. No. : 09/666,630  
Applicant(s) : KURAPATI, Kaushal  
Filed : 9/20/2000  
TC/A.U. : 2617  
Examiner : MA, Johnny  
Atty. Docket : US-000240

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On: 22 April 2006

By: 

Title: **TELEVISION PROGRAM RECOMMENDER WITH AUTOMATIC  
IDENTIFICATION OF CHANGING VIEWER PREFERENCES**

**Pre-Appeal Brief Request for Review**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the final Office action of 13 March 2006, applicant(s) request(s) review of the final rejection in the above referenced application. No amendments are being filed with this request. This paper is being filed with a notice of appeal.

**This review is requested for the reason(s) stated on the attached sheet(s) .**

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### REMARKS

**The examiner's omissions of one or more essential elements needed for a prima facie rejection:**

The Office action rejects claims 1-7, 9-12, 14-22, 24-27, and 29-32 under 35 U.S.C. 103(a) over Bedard (USP 5,801,747) and Herz et al. (USP 6,088,722, hereinafter Herz).

MPEP 2142, states:

"To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) *must teach or suggest all the claim limitations*... If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness."

Claim 1, upon which claims 2-10 depend, claims a method that includes establishing at least two viewing history sub-sets,  $VH_1$  and  $VH_K$ , from a viewing history; generating a corresponding set of program recommendation scores,  $S_1$  and  $S_K$ , for a set of programs in a given time interval based on the two viewing history sub-sets,  $VH_1$  and  $VH_K$ ; and comparing the sets of program recommendation scores,  $S_1$  and  $S_K$  to identify a change in the viewer preferences.

Both Bedard and Herz fail to teach generating a set of program recommendation scores,  $S_1$  and  $S_K$ , for a set of programs based on two viewing history sub-sets,  $VH_1$  and  $VH_K$ ; and comparing the sets of program recommendation scores,  $S_1$  and  $S_K$  to identify a change in the viewer preferences. Both Bedard and Herz also fail to teach comparing such sets of scores  $S_1$  and  $S_K$  to identify a change in the viewer preferences.

The Office action asserts that the claimed generation of scores  $S_1$  and  $S_K$  for a set of programs based on the history subsets  $VH_1$  and  $VH_K$  "is met [in Bedard] by ranking by relevance based on the amount of time the corresponding channels have been viewed..." The applicant respectfully disagrees with this assertion.

A "ranking by relevance" will produce a single set of scores for the channels. The applicant specifically claims producing at least two sets of scores, and the Office action fails to identify where either Bedard or Herz teaches producing two sets of scores.

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Further, the applicant specifically claims that these two sets of scores are determined for programs in a given time interval, and the Office action asserts that Herz's use of different time intervals corresponds to this given time interval. The applicant also respectfully disagrees with this assertion, for being contrary to the plain language of the claim.

Further, the applicant specifically claims comparing two sets of scores to identify a change to a viewer's preference. The Office action asserts that Bedard's updating of a viewer's profile corresponds to identifying a change to a viewer's preference. The applicant concurs with this characterization of Bedard, but respectfully notes that the applicant claims identifying the change by comparing two sets of scores, and the Office action fails to demonstrate where Bedard or Herz identify a change to a viewer's preference based on a comparison of two sets of scores.

Because both Bedard and Herz fail to teach generating corresponding sets of program recommendation scores for a set of programs in a given time interval based on the two viewing history sub-sets, and because both Bedard and Herz fail to teach comparing sets of scores to identify a change to a viewer's preferences, the applicant respectfully maintains that the rejection of claims 1-7 and 9-10 under 35 U.S.C. 103(a) over Bedard and Herz is unfounded, per MPEP 2142.

Claim 11, upon which claims 12-15 depend, claims a method that includes generating viewer profiles,  $P_1$  and  $P_K$ , corresponding to the at least two viewing history sub-sets,  $VH_1$  and  $VH_K$ ; generating a corresponding set of program recommendation scores,  $S_1$  and  $S_K$ , for a set of programs in a given time interval based on the viewer profiles,  $P_1$  and  $P_K$ ; comparing the sets of program recommendation scores,  $S_1$  and  $S_K$ , to identify a change in the viewer preferences; and deleting a portion of the viewing history if the sets of program recommendation scores,  $S_1$  and  $S_K$  are substantially similar.

Both Bedard and Herz fail to teach generating viewer profiles,  $P_1$  and  $P_K$ , corresponding to at least two viewing history sub-sets,  $VH_1$  and  $VH_K$ .

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Both Bedard and Herz fail to teach generating a corresponding set of program recommendation scores,  $S_1$  and  $S_K$ , for a set of programs in a given time interval based on such viewer profiles,  $P_1$  and  $P_K$ .

Both Bedard and Herz fail to teach comparing sets of program recommendation scores,  $S_1$  and  $S_K$ , to identify a change in the viewer preferences.

Both Bedard and Herz fail to teach deleting a portion of the viewing history if sets of program recommendation scores  $S_1$  and  $S_K$  are substantially similar.

The Office action makes broad and sweeping statements regarding the prior art's relevance to claim 11, but fails to provide a showing that either Bedard or Herz teaches the elements of claim 11.

The Office action notes that Bedard teaches avoiding duplicate entries in the history subsets at column 5, lines 44-48, and that Bedard teaches that the oldest entries in the history set are deleted if there is insufficient room for the newest entry at column 5, lines 59-60. The applicant agrees with this characterization of Bedard, but notes that this characterization does not address the specific elements of claim 11.

Because the Office action fails to demonstrate where either Bedard or Herz teaches each of the elements of the applicant's claimed invention, the applicant respectfully maintains that the Office action fails to provide a prima facie case to support the rejection of claims 11-12 and 14-15 under 35 U.S.C. 103(a) over Bedard and Herz, per MPEP 2142.

Claim 16, upon which claims 17-25 depend, claims a system that includes a processor that generates sets of program recommendation scores,  $S_1$  and  $S_K$ , for a set of programs in a given time interval based on at least two viewing history sub-sets,  $VH_1$  and  $VH_K$ , and compares the sets of program recommendation scores,  $S_1$  and  $S_K$  to identify a change in a viewer's preferences.

As noted above, both Bedard and Herz fail to teach generating sets of program recommendation scores based on at least two viewing history sub-sets, and both Bedard and Herz fail to teach comparing such sets of program recommendation scores to identify a change in a viewer's preferences. As such, the applicant

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respectfully maintains that the rejection of claims 17-22 and 24-25 under 35 U.S.C. 103(a) over Bedard and Herz is unfounded, per MPEP 2142.

Claim 26, upon which claims 27-30 depend, claims a system that includes a processor that generates viewer profiles,  $P_1$  and  $P_K$  corresponding to at least two viewing history sub-sets,  $VH_1$  and  $VH_K$ ; generates a corresponding set of program recommendation scores,  $S_1$  and  $S_K$ , for a set of programs in a given time interval based on the viewer profiles,  $P_1$  and  $P_K$ ; compares the sets of program recommendation scores,  $S_1$  and  $S_K$ , to identify a change in the viewer preferences; and delete a portion of the viewing history if the sets of program recommendation scores,  $S_1$  and  $S_K$  are substantially similar.

As noted above, the Office action fails to demonstrate where Bedard or Herz teach generating viewer profiles corresponding to at least two viewing history sub-sets; fail to teach generating a corresponding set of program recommendation scores for a set of programs in a given time interval based on the viewer profiles; fail to teach comparing sets of program recommendation scores,  $S_1$  and  $S_K$ , to identify a change in the viewer preferences; and fail to teach deleting a portion of the viewing history if the sets of program recommendation scores are substantially similar. As such, the applicant respectfully maintains that the rejection of claims 26-27 and 29-30 under 35 U.S.C. 103(a) over Bedard and Herz is unfounded, per MPEP 2142.

In like manner, claims 31 and 32 claim articles of manufacture that include program code for generating sets of program recommendation scores based on history subsets, and for comparing the scores to identify changes in television viewing preferences.

As discussed above, neither Bedard nor Herz teaches generating sets of program recommendation scores based on history subsets, and comparing the scores to identify changes in television viewing preferences. Therefore, the applicant respectfully maintains that the rejection of claims 31 and 32 under 35 U.S.C. 103(a) over Bedard and Herz is unfounded, per MPEP 2142.

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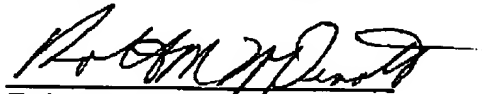
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# CONCLUSION

The Board of Patent Appeals and Interferences has consistently upheld the principle that the burden of establishing a prima facie case resides with the Office, and to meet this burden, the Examiner must specifically identify where each of the claimed elements are found in the prior art (see, for example, *Ex Parte Naoya Isoda*, Appeal No. 2005-2289, Application 10/064,508 (BPAI Opinion October 2005)). The Office action has failed to identify where each of the limitations of the applicant's claims can be found in either Bedard or Herz, and thus has failed to establish a prima facie case to support the rejections of the applicant's claims.

Because the Office action omits the essential elements needed to support a prima facie rejection of each of the applicant's independent claims, the applicant respectfully maintains that the rejection of claims 1-7, 9-12, 14-22, 24-27, and 29-32 under 35 U.S.C. 103(a) over Bedard and Herz must be withdrawn.

Respectfully submitted,



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